



**BILLING CODE 4310-MR-P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Ocean Energy Management**

**[Docket No. BOEM-2017-0041]**

**Final Supplemental Environmental Impact Statement for the Cape Wind Energy Project  
MMAA104000**

**AGENCY:** Bureau of Ocean Energy Management, Interior.

**ACTION:** Notice of availability of a final supplemental environmental impact statement.

**SUMMARY:** The Bureau of Ocean Energy Management (BOEM) is announcing the availability of a Final Supplemental Environmental Impact Statement (Final SEIS) for the Cape Wind Energy Project. This supplement to the 2009 Final EIS has been prepared in response to a 2016 remand order of the U.S. Court of Appeals for the District of Columbia Circuit in *Public Employees for Environmental Responsibility v. Hopper* (see SUPPLEMENTARY INFORMATION for details).

**FOR FURTHER INFORMATION CONTACT:** Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787-1722 or [michelle.morin@boem.gov](mailto:michelle.morin@boem.gov).

**SUPPLEMENTARY INFORMATION:** On July 5, 2016, the U.S. Court of Appeals for the District of Columbia Circuit vacated the 2009 Cape Wind Energy Project Final EIS and ordered that BOEM: “supplement [the EIS] with adequate geological surveys before Cape Wind may begin construction.” *Public Employees for Environmental Responsibility v. Hopper*, 827 F.3d 1077, 1084 (D.C. Cir. 2016). The Court opined that: “[w]ithout adequate geological surveys,

the [BOEM] cannot ‘ensure that the seafloor [will be] able to support’ wind turbines.” *Id.* at 1083. While the Court found that: “[BOEM] therefore had violated NEPA (National Environmental Policy Act)” the Court noted that “... [it] does not necessarily mean that the project must be halted or that Cape Wind must redo the regulatory approval process.” *Id.* at 1083-4. The Court explicitly left undisturbed BOEM’s 2010 decision to issue a lease to Cape Wind Associates (CWA) and BOEM’s 2011 decision to approve CWA’s Construction and Operations Plan (COP) for the Cape Wind Energy Project. *Id.* at 1084. In response to the Circuit Court’s remand order, BOEM published the Draft SEIS for the Cape Wind Energy Project on March 31, 2017.

The Draft SEIS considered the only two alternatives that remained relevant as a result of the Court’s remand order and CWA’s lease and the approved Cape Wind COP: the Proposed Action (affirming BOEM’s issuance of the existing lease), and the No Action Alternative (requiring BOEM to rescind lease issuance). BOEM published a notice in the *Federal Register* on March 31, 2017, to announce the availability of the Draft SEIS and initiate a 45-day public comment period (82 FR 16060). All the comments received on the Draft SEIS are available for public viewing and can be found at: <http://www.regulations.gov> by searching for docket ID BOEM–2017–0008.

In the Final SEIS for the Cape Wind Energy Project, BOEM examines the available geological survey data, including the geotechnical data and reports submitted to BOEM since the 2009 Final EIS, and any other relevant data that relate to the adequacy of the seafloor to support wind turbines in the lease area. The Final SEIS also includes a summary of all the comments received on the Draft SEIS and BOEM’s responses to those comments. The Final SEIS can be found on BOEM’s website at: <https://www.boem.gov/Massachusetts-Cape-Wind/>.

**Authority:** This notice of availability to prepare a Final SEIS is in compliance with NEPA, as amended (42 U.S.C. 4231 *et seq.*), and is published pursuant to 40 CFR 1506.6.

Dated: July 31, 2017.

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